

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7145 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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JAYANTILAL C. LIMBACHIYA

Versus

STATE OF GUJARAT

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Appearance:

MR HK RATHOD for Petitioner

MR HL JANI for Respondents

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 04/12/97

ORAL JUDGEMENT

#. Challenge has been made by petitioner to the order dated 17.7.82, annexure 'C', under which his term of temporary appointment has been extended only upto 20th July 1982. So, his services came to an end on expiry of the said period of extension.

#. The petitioner, as it is borne from the order of

respondent dated 2.2.82, has been appointed as workcharge Karkoon for a fixed term, i.e. till 31st March 1982. The term of temporary appointment of the petitioner has been extended upto 30th June 1982 under the order dated 11.5.82, and which was ultimately extended upto 20th July 1982 under the impugned order. So the total working of the petitioner was for about five months and 14-15 days. A contention has been raised by learned counsel for the petitioner that while terminating the services of the petitioner, his juniors have been retained and secondly that notice has not been given to the petitioner for termination of his services in accordance with Rule 33(b) of Bombay Civil Services Rules.

#. In para-6 of the Special Civil Application, the petitioner has averred that though Shri Shankerbhai G.Desai and Shri Shankerbhai C.Parmar were his juniors, they were continued in service. Annexure 'F' is the document which has been produced by petitioner on record of this Special Civil Application wherefrom I find that the term of temporary appointment of Shri S.C.Parmar has been extended till further orders. That order has been passed on 4.9.82. However, the petitioner has not produced any document on record so far as the other person is concerned. Ultimately what happened to Shri S.C.Parmar has not been disclosed by petitioner before this Court. The possibility that in future the services of Shri Parmar would also have been dispensed with cannot be overruled. Apart from this, at the most that action of the respondents may be illegal. Shri Parmar has not been impleaded as a party to this Special Civil Application and as such, on the validity of that order on the ground as raised by learned counsel for the petitioner cannot be gone into behind his back. However, on the basis of some order which may be illegal, no plea of discrimination can be raised. A plea of discrimination can only be raised on the basis of lawful orders of the authorities. In such matters, this Court should confine only to see whether the order impugned in this Special Civil Application is legal or not. The appointment of the petitioner was a temporary fixed term appointment. It is a settled law that the fixed term appointment automatically comes to an end by efflux of time and for termination of such appointment, the notice or opportunity of hearing is not required to be given nor the order of termination is required to be made. It is also a settled law that the temporary government servant has no right to the post as well as the right to continue or hold the post. While terminating such services the principles of natural justice are not required to be followed. If any reference is required, then it may have

to the decision of this Court in the case of Bhanmati Tapubhai Muliya v. State of Gujarat, reported in 1995(2) GLH 228. Further reference advantageously may also have to the decision of Hon'ble Supreme Court in the case of Madhya Pradesh Hasta Shilpa Vikas Nigam v. Devendrakumar, reported in JT 1995(1) SC 198.

#. Taking into consideration the totality of the facts of this case, I do not find any illegality in the order dated 17.7.82, annexure 'C' to this Special Civil Application. None of the legal or fundamental rights of the petitioner are being infringed. In the result, this Special Civil Application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this Court, stands vacated. No order as to costs.

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(sunil)